



# Attorney General

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Robert K. Corbin

May 5, 1989

The Honorable Lester N. Pearce  
State Senator  
State Capitol - Senate Wing  
Phoenix, Arizona 85007

Re: 189-034 (R89-061)

Dear Senator Pearce:

You have asked whether the Governor's nominee for State Superintendent of Banks meets the statutory qualifications for the position. Based on the resume of the nominee, we are unable to determine whether he has the qualifications required by statute for the position. The determination of the qualifications of the Governor's nominee involves factual questions which should be resolved in the nomination and/or confirmation proceedings. A.R.S. § 6-111(C) provides the qualifications necessary for the State Superintendent of Banks:

C. Any person appointed as superintendent shall have had, within fifteen years preceding his first appointment, at least five years active experience in the banking business as an executive officer or shall have served a like period of time in a bank examining or supervisory capacity for this state or for any other state or for an agency or instrumentality of the United States.

According to the nominee's resume, he has spent three years in the private practice of law representing financial institutions, at least one year as senior vice-president and general counsel for a state bank, and eight years in "various

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attorney positions of increasing responsibility, including Senior Attorney and Regional Counsel" for the Office of Comptroller of the Currency which is an instrumentality of the United States which regulates national banks. It also appears that during his tenure with the Comptroller he was involved in "consumer regulation, enforcement and compliance matters, general banking matters, and management and supervision of employees." On the face of the resume, there is no way of determining whether the nominee in the referenced employment positions had in fact responsibilities in a "bank examining or supervisory capacity" for any state or an instrumentality of the United States. Before a conclusion can be reached, information should be obtained from the nominee and any appropriate sources regarding the nominee's specific experience in the banking industry to determine the sufficiency of his qualifications under the statute.

In assessing whether the nominee meets the statutory requirements, there is a presumption in favor of the eligibility of a person who has been appointed to public office, and the statutory qualifications will be liberally construed to support the appointment. Shirley v. Superior Court, 109 Ariz. 510, 515, 513 P.2d 939, 944 (1973), cert. denied, 415 U.S. 917 (1974); McCarthy v. State, 55 Ariz. 328, 334-35, 101 P.2d 449, 451 (1940). See also Ariz. Att'y. Gen. Op. Nos. 77-189 & 75-210.

Sincerely,



BOB CORBIN  
Attorney General

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